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EXTRAORDINARY

BANGALORE, SATURDAY, AUGUST 14, 1948.

NOTIFICATION

Order No. R. L. 445—Legis., 28-48-1, Bangalore, dated the 14th August 1948.

Ordered that the accompanying Mysore Maintenance of Public Order Act, 1948, which received the assent of His Highness the Maharaja, on the seventh day of August 1948, be published as Act No. LVIII of 1948, in the *Mysore Gazette* for general information.

S. KANAKARATNARAJ,
Legal Remembrancer and
Secretary to Government,
Law Department.

ACT No. LVIII OF 1948.

THE MYSORE MAINTENANCE OF PUBLIC ORDER ACT, 1948.

(Received the assent of His Highness the Maharaja on the seventh day of August 1948.)

An Act to provide for the Control of meetings and processions, prevention of prejudical acts and certain other purposes.

WHEREAS for the maintenance of public safety and to prevent and put down disorders involving menace to the peace and tranquillity of Mysore, it is necessary to provide for the control of meetings and processions, prevention of prejudicial acts and certain other purposes:

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Mysore Maintenance of Public Order Act, 1948.

Short title, extent, commencent and duration.

(2) It extends to the whole of Mysore.

(3) It shall come into force at once.

(4) It shall remain in force for a period of one year; but the Government may, from time to time, by notification in the Official Gazette, extend the continuance of this Act for a further period or periods not exceeding one year in the aggregate, if in their opinion it is expedient so to do. Upon the expiry of this Act, the provisions of section 6 of the General Clauses Act, 1899, shall apply as if this Act had been repealed by an Act.

Definitions.

2. In this Act unless there is anything repugnant to the subject or context,—

(1) "Code of Criminal Procedure" means with reference to the Retroceded Area, the Code of Criminal Procedure, 1898, as applied to that area and continued by the Retrocession (Application of Laws) Act, 1947, and with reference to the rest of Mysore, the Code of Criminal Procedure, 1904.

(2) "document" includes gramophone records, sound tracks and any other articles on which sounds have been recorded with a view to their subsequent reproduction.

(3) "essential commodity" means food, water, fuel, light, power or any other thing essential for the existence of the community which may be notified in this behalf by the Government in the Official Gazette.

(4) "prejudicial act" means any act which is intended or is likely—

(*a*) to cause disaffection among, or to prejudice, prevent or interfere with the discipline, health or training of, or the performance of their duties by, public servants;

(*b*) to render any public servant incapable of efficiently performing his duties as such or to induce any public servant to fail in the performance of his duties as such;

(*c*) to prejudice the recruiting of, or the attendance of persons for service in, any of the forces of His Highness the Maharaja, or any police force, or fire brigade or any other body of persons entered, enrolled or engaged as public servants;

(*d*) to bring into hatred or contempt, or to excite disaffection towards His Highness the Maharaja, or the Government established by law in Mysore or in the Dominion of, or in any Province in India;

(*e*) to promote feelings of enmity and hatred between different classes of the subjects of His Highness the Maharaja;

(*f*) to cause fear or alarm to the public or to any section of the public;

(*g*) to impede, delay or restrict the means of transport or locomotion or any work necessary for the supply or distribution of any essential commodity;

(*h*) to cause, or produce, or to instigate or incite directly or indirectly, the cessation of work by a body of persons employed in any place of employment in which fifty persons or more are normally employed, except in furtherance of a trade dispute, as defined (with reference to the Retroceded Area) in the Trade Disputes Act, 1929, as applied to the said area and continued by the Retrocession (Application of Laws) Act, 1947, or an industrial dispute, as defined (with reference to the rest of Mysore) in the Mysore Labour Act, 1942, with which such body of persons is directly concerned;

(*i*) to influence the conduct or attitude of the public, or of any section of the public, in a manner likely to be prejudicial to public safety or the maintenance of public order;

(*j*) to instigate, directly or indirectly, the use of criminal force against public servants generally, or any class of public servants or any individual public servant.

(4*a*) "Protected area" means an area declared under section 8A to be a protected area.

(5) "prejudicial report" means any report, statement or visible representation, whether true or false, which,

or the publishing of which, is, or is an incitement to the commission of, a prejudicial act.

(6) "public servant" includes any public servant as defined in the Indian Penal Code and any servant of any local authority.

(7) "Retroceded Area" means the retroceded area as defined in the Retrocession (Application of Laws) Act, 1947.

Effect of provisions inconsistent with other enactments.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

CHAPTER II.

PUBLIC SAFETY AND ORDER.

Control of processions, meetings, etc.

4. (1) The District Magistrate may, for the purpose of securing public safety or the maintenance of public order, by general or special order, prohibit, restrict or impose conditions upon the holding of, or taking part in, public processions, meetings or assemblies.

(2) For the purposes of sub-section (1) any procession, meeting or assembly which is open to the public, or to any class or portion of the public, whether held in a public or a private place and whether admission thereto is restricted by the issue of tickets or otherwise, shall be deemed to be a public procession, meeting or assembly, as the case may be.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Unlawful drilling.

5. (1) The Government may, by general or special order, prohibit or restrict in any area any such exercise, movement, evolution or drill of a military nature as may be specified in the order.

(2) The Government may, by general or special order, with a view to securing that no exercise, movement, evolution or drill of a military nature is performed at any place, prohibit, restrict or impose conditions upon the holding of, or taking part in, any such camp, parade, meeting or assembly, as may be specified in the order.

(3) If any person contravenes any order made under this section, he shall be punishable with imprison-

ment for a term which may extend to three years, or with fine, or with both.

Official uniforms.

6. (1) If the Government is satisfied that—

(*a*) the wearing in public of any dress or article of apparel resembling any uniform, or part of uniform, required to be worn by a member of the forces of His Highness the Maharaja, or by a member of any official police force or of any force constituted under any law for the time being in force;

(*b*) the wearing or display in public of any distinctive dress, or article of apparel, or any emblem, would be likely to prejudice the public safety or the maintenance of public order,

the Government may, by general or special order, prohibit, or restrict the wearing or display in public of any such dress, article of apparel or emblem.

(2) For the purposes of this section, a dress, an article of apparel or an emblem shall be deemed to be worn or displayed in public if it is worn or displayed so as to be visible to a person in any place to which the public have access.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Curfew

7. (1) The District Magistrate, whenever it appears to him to be necessary to ensure public safety or the maintenance of public order, may by order direct that subject to any specified exemption,—

(*a*) no person present within any specified area shall, between such hours as may be specified, be out of doors except under the authority of a written permit granted by a specified authority or person;

(*b*) no person within a specified area shall put up any barricade or any obstruction across, or in any public road, or public place or part thereof.

(2) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Proclamation of emergency and power of District Magistrate to use force in certain circumstances.

8. (1) The Government may, if satisfied that the public peace or tranquillity in Mysore, or in any part thereof, is disturbed, or is likely to be disturbed, in consequence of a conflict, or apprehended conflict, between different communities, or sections, or factions or gangs, declare by a proclamation (hereinafter referred to as a Proclamation of Emergency) in the official Gazette that an emergency exists either in Mysore or in any such part thereof as is specified in the Proclamation.

(2) A Proclamation of Emergency may, at any time, be revoked by a subsequent proclamation.

(3) The provisions of this section shall be operative during the continuance of a Proclamation of Emergency and in such part of Mysore in which by the Proclamation the emergency is stated to exist.

(4) The cessation of any Proclamation of Emergency shall not—

(*a*) affect any liability incurred under the provisions of this section, or any punishment incurred in respect of any contravention of the said provisions or of any order made thereunder;

(*b*) affect any investigation or legal proceeding in respect of any such liability or punishment as aforesaid; and any such investigation or legal proceeding may be instituted, continued or enforced and any such punishment may be imposed as if the provisions of this section had not ceased to be operative.

(5) Subject to the general orders of the Government, any Magistrate, or any police officer not below the rank of a Sub-Inspector or any member of the State Forces not below the rank of a Subedar, authorised by the District Magistrate by general or special order in writing, may, if in his opinion it is necessary so to do for restoring or maintaining public order, after giving such warning, if any, as such Magistrate, police officer or member of the State Forces may consider necessary, fire upon, order fire to be opened or otherwise use force or cause force to be used, even to the causing of death, against any person who—

(*a*) when an order under clause (*a*) of sub-section (1) of section 7 is in force is out of doors, and fails to halt when challenged by a police officer or a member of the State Forces; or

(*b*) contravenes or attempts to contravene an order under clause (*b*) of sub-section (1) of section 7; or

(*c*) does, or attempts to do or appears to be about to do any such act as would endanger or damage any property of any description whatsoever which it is the duty of any police officer or a member of the State Forces to protect; or

(*d*) does, or attempts to do or appears to be about to do any such act as would render him liable to punishment under Chapter XV or sections 302, 304, 325, 326, 380, 382, 386, 387, 392, 393, 394, 395, 399, 435 or 436 of the Indian Penal Code; or

(*e*) is acting in contravention of any order under section 4 prohibiting public meetings, processions or assemblies, or of any order under section 21 prohibiting the carrying of arms, explosive substances, corrosive substances or liquids, or anything capable of being used as a weapon of offence.

(6) The use of force against any person in pursuance of an order under sub-section (5) shall include the power to arrest and take into custody such person and the use of such force as may be necessary, even to the causing of death, in order to effect such arrest.

(7) (*a*) Whoever commits any offence punishable under any of the following sections of the Indian Penal Code, namely, 307, 363, 364, 365, 366, 367, 368, 376, 392, 394, 395, 397, 398 and 436, may, in lieu of the punishment to which he is liable under that Code, be punished with transportation for life.

(*b*) Whoever attempts to commit, or abets the commission of, any offence punishable under any section of the Indian Penal Code referred to in clause (*a*) may, notwithstanding anything contained in that Code, be punished with transportation for life or with the punishment provided in that section for the offence.

Protected Areas.

8A. (1) If the Government considers it necessary or expedient to regulate the entry of persons into any area, it may, by order, declare the area to be a protected area; and thereupon for so long as the said order is in force, such area shall be a protected area.

(2) On and after such day as may be specified in and subject to any exemptions for which provision may be made by an order made under sub-section (i) no person who was not at the beginning of the said day resident in the area declared to be a protected area by the said order, shall be therein, except in accordance with the terms of a permit in writing granted to him by an authority or person specified in the said order.

(3) Any Police Officer or any other person authorised in this behalf by the Government, may search any person entering or seeking to enter, or being or in, or leaving, a protected area, and any vehicle, aircraft or article brought in by such person, and may, for the purposes of the search, detain such person, vehicle, aircraft, and article.

Provided that no female shall be searched in pursuance of this sub-section except by a female.

(4) If any person is in a protected area in contravention of the provisions of this section, then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by or under the direction of any Police Officer, or any member of His Higness the Maharaja's forces on duty in the protected area.

(5) If any person is in a protected area in contravention of any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(6) Any person who effects or attempts to effect entry into a protected area—

(*a*) by using, or threatening to use, criminal force to any person posted for the purpose of protecting or of preventing or controlling access to, such place or area, or

(2) The Controller may, by order published in the official Gazette, issue a direction under sub-section (1) generally to all dealers in or producers of a particular article or particular articles.

(3) No dealer shall destroy, efface or alter or cause to be destroyed, effaced or altered any label or mark affixed to an article and indicating the price marked by a producer.

Powers of Controller, Inspector, etc.

13 (1) The Controller or an Inspector or an officer empowered in this behalf by the Government may—

(*a*) direct a dealer or producer to maintain records of sale and purchase transactions;

(*b*) direct a dealer or producer to furnish any information he may require as to the business carried on by such dealer or producer;

(*c*) direct a dealer or producer to furnish any information possessed by such dealer or producer as to the business carried on by any other person;

(*d*) inspect or cause to be inspected any books or other documents belonging to or under the control of any dealer or producer;

(*e*) enter and search any premises;

(*f*) seize or direct the seizure of any article in respect of which he suspects that an offence under this Act has been, is being or is about to be committed, and thereafter take or direct the taking of all measures necessary for securing the production of the article in a Court.

(2) The Controller may, by order published in the official Gazette, issue to all dealers or producers of a specified class a direction such as is referred to in clause (*a*) or clause (*b*) of sub-section (1).

(3) The Controller and such Inspectors and other officers as may be empowered by the Government in this behalf shall, within the respective areas for which they are appointed, have power to investigate all offences punishable under this Act and in conducting any such investigation shall, within the said areas, have all the powers, duties privileges and liabilities of an officer in charge of a Police Station under the Code of Criminal Procedure, 1904, when investigating a cognisable offence within the limits of his station.

Penalties.

14. (1) Whoever contravenes any of the provisions of this Act shall be punishable with imprisonment for a

term which may extend to five years, or with fine, or with both.

(2) Whoever fails to comply with any direction made under authority conferred by this Act shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(3) A court convicting any person of an offence punishable under this Act, may order any article, in respect of which the offence was committed, to be forfeited to the Government.

(4) Notwithstanding anything to the contrary in clause (*a*) of sub-section (1) of section 32 of the Code of Criminal Procedure, 1904, a Magistrate of the First Class specially empowered by the Government in this behalf may impose a sentence of fine exceeding one thousand rupees for any offence punishable under this Act.

Right of buyer to avoid prohibited transactions or to recover excess price.

15. (1) Where any person has been convicted of the offence specified in sub-section (1) of section 6, then—

(*a*) if the prosecution was in respect of a sale, the buyer at that sale, and

(*b*) if the prosecution was in respect of a sale or an offer to sell or a disposal otherwise than by sale, the buyer under any sale of similar articles effected at the same or a higher price in the course of that business in contravention of the provisions of sub-section (1) of section 6 before the date of conviction, may at his option—

(i) either treat the sale as void, and recover from the seller, as money received by him for the use of the buyer, any amount paid by the buyer as consideration therefor, or

(ii) affirm the sale but recover as aforesaid to the extent of any loss sustained by him by reason of the contravention, regard being had to any consideration received or to be received by him for a resale of the articles:

Provided that the buyer shall not be entitled to exercise the rights conferred by clause (i) if any rights acquired by a third party would be prejudiced thereby, or after the lapse of an unreasonable time from the date of sale, or unless he tenders the articles to the seller in substantially the same state as that in which they were when the property passed to the buyer.

(2) Any sum recoverable under this section shall be recoverable with interest thereon at the rate of five per cent per annum from the date when it was paid.

(3) No person may exercise any rights conferred by this section who is himself liable to punishment as an abettor of the contravention in question.

Procedure.

16. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Government, or of an officer empowered by the Government to grant such sanction.

Special rules of evidence.

17. (1) In any prosecution for a contravention of the provisions of section 6 when the sale of, or offer to sell, or disposal of, the article in question and the price at which it was made, have been proved, then, if it is also proved that such price exceeded by more than 20 per cent, the amount specified in sub-clause (i) or (ii) of clause (*b*) of sub-section (2) of section 6 or in clause (*c*) of that sub-section, as the case may be, it shall lie on the accused person to prove that the sale price charged was within the limits approved by the Controller under the proviso to the said sub-section.

(2) For the purposes of section 6, a certificate signed by or under authority from the Controller as to the landed cost of any articles shall be conclusive proof of that landed cost, and in giving the said certificate such of the following charges as are actually incurred in connection with the article shall be taken into account, namely buying commission, insurance premium, freight, customs duty paid, landing and clearing charges up to deposit of the article in the importer's warehouse or other place of storage and charges made by banks for transmitting shipping documents.

18. If the person contravening any provision of this Act is a company or other body corporate, every director manager, or secretary or other administrative officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

Certain officers to be deemed public servants.

19. The Controller, Inspectors and Officers empowered for the purposes of sections 5, 8, 9 or 13 by the Government shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, as in force in Mysore.

Bar of legal proceedings.

20. No suit, prosecution or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act.

Saving of other laws.

21. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating the keeping, storage, distribution, disposal, or price of articles.

Exception of certain articles.

22. The provisions of this Act shall not apply—

(*a*) to the possession or sale of any article intended for export from Mysore by a person holding an export license for the export of that article;

(*b*) to the possession or sale of any article by a person discharging a contract entered into with the Government where the possession or sale is in pursuance of that contract.

Repeal.

23. The Hoarding and Profiteering Prevention Ordinance, 1943 (XXXV of 1943) as continued by the Retrocession (Application of Laws) Act, 1947, in the Retroceded Area is hereby repealed.

A. RAMASWAMI MUDALIAR,
Dewan.

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